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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

IN RE: TOYOTA MOTOR CORP.
UNINTENDED ACCELERATION
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

This documents relates to:

ALL ECONOMIC LOSS CASES

Case No.: 8:10ML2151 JVS (FMOx)

**TOYOTA DEFENDANTS' NOTICE OF
CROSS-MOTION AND CROSS-
MOTION FOR CHOICE-OF-LAW
DETERMINATION AS TO ALL
ECONOMIC LOSS CASES AND
PLAINTIFFS BEFORE THIS COURT**

Date: May 16, 2011
Time: 3:00 pm
Location: Court Room 10C
Judicial Officer: Hon. James V. Selna

TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on May 16, 2011, at 3:00 p.m. or as soon as counsel may be heard in Courtroom 10C of the above-referenced Court, located at 411 West Fourth Street, Room 1053, Santa Ana, California 92701, Defendants Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc. (collectively, "Toyota"), will and hereby do respectfully move, for this Court to issue a choice-of-law determination as to all Economic Loss actions and parties consolidated in this MDL as required by *Klaxon Co. v. Stentor Electric Manufacturing Co.*, 313 U.S. 487 (1941), *Van Dusen v. Barrack*, 376 U.S. 612 (1964), and *In re Nucorp Energy Sec. Litig.*, 772 F.2d 1486, 1492 (9th Cir. 1985) (holding that the MDL court must apply the choice-of-law rules of the state where the claims were originally filed before they were transferred to California by the JPML). More specifically, Toyota moves the Court to apply the choice-of-law rules of each of the following transferor jurisdictions to determine the substantive law applicable to each and every claim of each and every putative class member in this consolidated MDL:

1. *Harding v. Toyota Motor Co., et al.*, No. 8:10-cv-00552 (formerly 10-cv-00100) (M.D. Ala.)
2. *Stoller v. Toyota Motor Co., et al.*, No. 8:10-cv-00565 (formerly 4:10-cv-00024) (M.D. Ga.)
3. *Laird v. Toyota Motor Co., et al.*, No. 8:10-cv-00566 (3:10-cv-00022) (S.D. Ga.)
4. *Schlegel v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00729 (formerly 1:10-cv-00694) (N.D. Ga.)
5. *Drake v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00730 (formerly 1:10-cv-01231) (N.D. Ga.).
6. *Firgon v. Toyota Motor Co., et al.*, No. 8:10-cv-00570 (formerly 2:10-cv-02075) (D. Kan.)

1 7. *Shechter v. Toyota Motor Engineering & Manufacturing North America,*
2 *Inc., et al.*, No. 8:10-cv-00741 (formerly 2:10-cv-02144) (D. Kan.)

3 8. *Fanning v. Toyota Motor Co., et al.*, No. 8:10-cv-00742 (formerly 6:10-
4 cv-01090) (D. Kan.)

5 9. *Schantz v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00751
6 (formerly 8:10-cv-01075) (D. Md.)

7 10. *Scott v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00654
8 (formerly 8:10-cv-00450) (D. Md.)

9 11. *Wooten v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00621
10 (formerly 3:10-cv-00229) (D.S.C.)

11 12. *Roberts v. Toyota Motor Co., et al.*, No. 8:10-cv-00622 (formerly 7:10-
12 cv-00281) (D.S.C.)

13 13. *Smyser v. Toyota Motor Co., et al.*, No. 8:10-cv-00720 (formerly 2:10-
14 cv-00741) (D. Ariz.)

15 14. *Bowron v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv 10-00719
16 (formerly 2:10-cv-00580) (D. Ariz.)

17 15. *Harris v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00722 (formerly
18 1:10-cv-00460) (D. Colo.)

19 16. *Noble v. Toyota Motor North America, Inc.*, No. 8:10-cv-00723
20 (formerly 1:10-cv-00915) (D. Colo.)

21 17. *Gustin v. Toyota Motor Co., et al.*, No. 8:10-cv-00734 (formerly 1:10-cv-
22 00114) (D. Idaho)

23 18. *Ochs v. Toyota Motor Co., et al.*, No. 8:10-cv-00567 (formerly 1:10-cv-
24 00918) (N.D. Ill.)

25 19. *Field v. Toyota Motor North America, Inc.*, No. 8:10-cv-00735 (formerly
26 1:10-cv-01351) (N.D. Ill.)

27 20. *Shansky v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00736
28 (formerly 1:10-cv-01379) (N.D. Ill.)

1 21. *Toledo v. Toyota Motor Co., et al.*, No. 8:10-cv-00737 (formerly 1:10-cv-
2 01599) (N.D. Ill.)

3 22. *Walls v. Toyota Motor Co., et al.*, No. 8:10-cv-00740 (formerly 3:10-cv-
4 00215) (S.D. Ill.)

5 23. *Diaz v. Toyota Motor Co., et al.*, No. 8:10-cv-00738 (formerly 1:10-cv-
6 01931) (N.D. Ill.)

7 24. *Rifken v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00739
8 (formerly 1:10-cv-02507) (N.D. Ill.)

9 25. *Carlson v. Toyota Motor Co., et al.*, No. 8:10-cv-00733 (formerly 4:10-
10 cv-00083) (S.D. Iowa)

11 26. *Beard v. Toyota Motor Co., et al.*, No. 8:10-cv-00732 (formerly 3:10-cv-
12 00033) (S.D. Iowa)

13 27. *Karjala v. Toyota Motor Co., et al.*, No. 8:10-cv-00752 (formerly 0:10-
14 cv-00766) (D. Minn.)

15 28. *Weyer v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00753
16 (formerly 0:10-cv-00801) (D. Minn.)

17 29. *Wedul v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00754
18 (formerly 0:10-cv-00943) (D. Minn.)

19 30. *Bell v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00755
20 (formerly 0:10-cv-00944) (D. Minn.)

21 31. *Oliver v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00586
22 (formerly 0:10-cv-00942) (D. Minn.)

23 32. *Hauck v. Toyota Motor Co., et al.*, No. 8:10-cv-00757 (formerly 0:10-cv-
24 01924) (D. Minn.)

25 33. *Simmons v. Toyota Motor Co., et al.*, No. 8:10-cv-00589 (formerly 3:10-
26 cv-00009) (N.D. Miss.)

27 34. *Mitchell v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00591
28 (formerly 3:10-cv-00104) (S.D. Miss.)

1 35. *Hulsen v. Toyota Motor Co., et al.*, No. 8:10-cv-00588 (formerly 4:10-cv-
2 00103) (W.D. Mo.)

3 36. *O'Leary v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00759
4 (formerly 10-cv-00350) (E.D. Mo.)

5 37. *Ridenour v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00760
6 (formerly 4:10-cv-00365) (E.D. Mo.)

7 38. *Zhang v. Toyota Motor Engineering & Manufacturing North America,*
8 *Inc., et al.* No. 8:10-cv-00761 (formerly 4:10-cv-00238) (W.D. Mo.)

9 39. *Jerry Baker Auto Sales, LLC v. Toyota Motor Sales, U.S.A., Inc., et al.*,
10 No. 8:10-cv-00587 (formerly 2:10-cv-04025) (W.D. Mo.)

11 40. *Quintana v. Toyota Motor Co., et al.*, No. 8:10-cv-00762 (formerly 1:10-
12 cv-00020) (D. Mont.)

13 41. *Matsis v. Toyota Motor Co., et al.*, No. 8:10-cv-01380 (formerly 2:10-cv-
14 01076) (D. Nev.)

15 42. *Gonzalez v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00592
16 (formerly 3:10-cv-00595) (D.N.J.)

17 43. *Colaberdino v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-
18 00593 (formerly 3:10-cv-00672) (D.N.J.)

19 44. *Guokas v. Toyota Motor Co., et al.*, No. 8:10-cv-00595 (formerly 3:10-
20 cv-00778) (D.N.J.)

21 45. *Abken v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00594
22 (formerly 3:10-cv-00763) (D.N.J.)

23 46. *Coslop, IV v. Toyota Motor Co., et al.*, No. 8:10-cv-00767 (formerly
24 3:10-cv-01623) (D.N.J.)

25 47. *Gordon v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00596
26 (formerly 3:10-cv-00914) (D.N.J.)

27 48. *Tiboni v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00768 (formerly
28 3:10-cv-01786) (D.N.J.)

1 49. *Darcy v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00769
2 (formerly 3:10-cv-02032) (D.N.J.)

3 50. *Fraase v. Toyota Motor Co., et al.*, No. 8:10-cv-00765 (formerly 3:10-cv-
4 00016) (D. N.D.)

5 51. *Menssen v. Toyota Motor Sales, U.S.A., Inc., et al.* No. 8:10-cv-00606
6 (formerly 1:10-cv-00260) (N.D. Ohio)

7 52. *Cox v. Beechmont Toyota, Inc., et al.*, No. 8:10-cv-00609 (formerly 2:10-
8 cv-00181) (S.D. Ohio)

9 53. *Lee v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00607
10 (formerly 3:10-cv-00280) (N.D. Ohio)

11 54. *Grunkemeyer v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-
12 00608 (formerly 1:10-cv-00128) (S.D. Ohio)

13 55. *Shumaker v. Toyota Motor Engineering & Manufacturing North*
14 *America, Inc., et al.*, No. 8:10-cv-00611 (formerly 3:10-cv-00061) (S.D. Ohio)

15 56. *Glardon v. Toyota Motor Engineering & Manufacturing North America,*
16 *Inc., et al.*, No. 8:10-cv-00656 (formerly 2:10-cv-00179) (S.D. Ohio)

17 57. *Kunce v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00774 (formerly
18 1:10-cv-00165) (S.D. Ohio)

19 58. *Immerman v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-
20 00773 (formerly 1:10-cv-00650) (N.D. Ohio)

21 59. *G&M Motors, Inc. v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-
22 cv-01373 (formerly 1:10-cv-01339) (N.D. Ohio)

23 60. *Crespo-Bithorn v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-
24 00620 (formerly 3:10-cv-01083) (D.P.R.)

25 61. *Gallardo-Browning v. Toyota Motor North America, Inc., et al.*, No.
26 8:10-cv-01003 (formerly 3:10-cv-01390) (D.P.R.)

27 62. *Rivera v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-01920
28 (formerly 3:10-cv-02053) (D.P.R.)

1 63. *Pena v. Toyota Motor Co., et al.*, No. 8:10-cv-00625 (formerly 2:10-cv-
2 00037) (S.D. Tex.)

3 64. *Whiddon v. Toyota Motor Co., et al.*, No. 8:10-cv-00623 (formerly 1:10-
4 cv-00080) (E.D. Tex.)

5 65. *Brandt v. Toyota Motor Co., et al.*, No. 8:10-cv-00784 (formerly 3:10-cv-
6 00788) (N.D. Tex.)

7 66. *Wojeck v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00786
8 (formerly 2:10-cv-00542) (W.D. Wash.)

9 67. *Seu v. Toyota Motor Co., et al.*, No. 8:10-cv-00787 (formerly 3:10-cv-
10 05176) (W.D. Wash.)

11 68. *Weller v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-000785 (formerly
12 2:10-cv-00426) (W.D. Wash.)

13 69. *Patel v. Toyota Motor North America, Inc.*, No. 8:10-cv-00558 (formerly
14 3:10-cv-00210) (D. Conn.)

15 70. *Gellman v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00465
16 (formerly 1:10-cv-20006) (S.D. Fla.)

17 71. *Lynch v. Toyota Motor Co., et al.*, No. 8:10-cv-00464 (formerly 8:10-cv-
18 00326) (M.D. Fla.)

19 72. *Heilbrunn v. Toyota Motor Co., et al.*, No. 8:10-cv-00564 (formerly 9:10-
20 cv-80208) (S.D. Fl.)

21 73. *Heidenreich v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-
22 00561 (formerly 4:10-cv-00035) (N.D. Fla.)

23 74. *Rivas-Vigil v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-
24 00563 (formerly 0:10-cv-60183) (S.D. Fla.)

25 75. *Cipriani v. Toyota Motor Co., et al.*, No. 8:10-cv-00559 (formerly 8:10-
26 cv-00427) (M.D. Fla.)

27 76. *Ramos v. Toyota Motor Sales U.S.A., Inc.*, No. 8:10-cv-00726 (formerly
28 1:10-cv-20630) (S.D. Fla.)

1 77. *Cohen-Goldberger v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-
2 cv-00727 (formerly 1:10-cv-20648) (S.D. Fla.)

3 78. *Siff v. v. Toyota Motor North America, Inc. et al.*, No. 8:10-cv-00725
4 (formerly 0:10-cv-60379) (S.D. Fla.)

5 79. *Helmick v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00728
6 (formerly 1:10-cv-20960) (S.D. Fla.)

7 80. *Vincent v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-01363
8 (formerly 1:10-cv-22785) (S.D. Fla.)

9 81. *Ryan v. v. Morse Operations, Inc., et al.*, No. 8:10-cv-01365 (formerly
10 9:10-cv-80929) (S.D. Fla.)

11 82. *Kline v. Toyota Motor Co., et al.*, No. 8:10-cv-01364 (formerly 9:10-cv-
12 80912) (S.D. Fla.)

13 83. *Griffin v. Toyota Motor Co., et al.*, No. 8:10-cv-00770 (formerly 1:10-cv-
14 00323) (D. N.M.)

15 84. *Lee v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00612
16 (formerly 5:10-cv-00117) (W.D. Okla.)

17 85. *Hartgrove v. Toyota Motor Co., et al.*, No. 8:10-cv-00779 (formerly
18 3:10-cv-00101) (E.D. Tenn.)

19 86. *Pera, Jr. v. Toyota Motor Co., et al.*, No. 8:10-cv-00782 (formerly 2:10-
20 cv-02153) (W.D. Tenn.)

21 87. *Atnip v. Toyota Motor Co., et al.*, No. 8:10-cv-00781 (formerly 3:10-cv-
22 00387) (M.D. Tenn.)

23 88. *Graves v. Toyota Motor Manufacturing, West Virginia, Inc., et al.*, No.
24 8:10-cv-00469 (formerly 2:09-cv-01247) (S.D. W.Va.)

25 89. *Dadisman v. Toyota Motor Co., et al.*, No. 8:10-cv-00788 (formerly 2:10-
26 cv-00399) (S.D. W.Va.)

27 90. *Horn v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00553
28 (formerly 4:10-cv-00090) (E.D. Ark.)

1 91. *Rainwater v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00554 (4:10-
2 cv-00116) (E.D. Ark.)

3 92. *Adkison v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00556
4 (formerly 6:10-cv-06013) (W.D. Ark.)

5 93. *Lentz v. Toyota Industries, N.A., Inc., et al.*, No. 8:10-cv-00555 (formerly
6 4:10-cv-00149) (E.D. Ark.)

7 94. *Funasaki v. Toyota Motor Co., et al.*, No. 8:10-cv-00731 (formerly 1:10-
8 cv-00111) (D. Haw.)

9 95. *Enderle v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00568
10 (formerly 1:10-cv-00142) (S.D. Ind.)

11 96. *Poynter v. Toyota Motor North America, Inc.*, No. 8:10-cv-00571
12 (formerly 2:10-cv-00021) (E.D. Ky.)

13 97. *Viviano v. Toyota Motor Engineering & Manufacturing North America,*
14 *Inc., et al.*, No. 8:10-cv-00653 (formerly 2:10-cv-00024) (E.D. Ky.)

15 98. *Leaverton v. Toyota Motor Engineering & Manufacturing North*
16 *America, Inc., et al.*, No. 8:10-cv-00573 (formerly 2:10-cv-00032) (E.D. Ky.)

17 99. *Miller v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00572
18 (formerly 2:10-cv-00031) (E.D. Ky.)

19 100. *Maryn v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00574
20 (formerly 2:10-cv-00046) (E.D. Ky.)

21 101. *Jorge v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00743
22 (formerly 2:10-cv-00060) (E.D. Ky.)

23 102. *Maillho v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00467
24 (formerly 2:10-cv-00279) (E.D. La.)

25 103. *Weimer v. Toyota Motor North America, Inc., et al.*, No. 10-cv-00466
26 (formerly 2:10-cv-00219) (E.D. La.)

27 104. *Donahue v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00579
28 (formerly 3:10-cv-00108) (M.D. La.)

1 105. *Burke v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00577
2 (formerly 2:10-cv-00649) (E.D. La.)

3 106. *Farrelly v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00576
4 (formerly 2:10-cv-00647) (E.D. La.)

5 107. *Jones v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00578
6 (formerly 2:10-cv-00687) (E.D. La.)

7 108. *Rockforte v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00580
8 (3:10-cv-00174) (M.D. La.)

9 109. *Shah v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00582
10 (formerly 1:10-cv-10263) (D. Mass.)

11 110. *Ferrara v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00750
12 (formerly 1:10-cv-10381) (D. Mass.)

13 111. *Baumkel v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00583
14 (formerly 2:10-cv-10525) (E.D. Mich.)

15 112. *Hernandez v. Hino Motors Manufacturing U.S.A., Inc., et al.*, No. 8:10-
16 cv-00584 (formerly 2:10-cv-10835) (E.D. Mich.)

17 113. *Phaneuf v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00599
18 (formerly 2:10-cv-00487) (E.D.N.Y.)

19 114. *Davis v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00601
20 (formerly 1:10-cv-00900) (S.D.N.Y.)

21 115. *Iglesias v. Toyota Motor Co., et al.*, No. 8:10-cv-00602 (formerly 1:10-
22 cv-01014) (S.D.N.Y.)

23 116. *Fogarty v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00598
24 (formerly 1:10-cv-00542) (E.D.N.Y.)

25 117. *Haustein v. Toyota Motor Co., et al.*, No. 8:10-cv-00600 (formerly 5:10-
26 cv-00178) (N.D.N.Y.)

27 118. *Tran v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-01001
28 (formerly 1:10-cv-01816) (S.D.N.Y.)

1 119. *Sander v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00603
2 (formerly 1:10-cv-01111) (S.D.N.Y.)

3 120. *DuBois v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-01312
4 (formerly 1:10-cv-00779) (E.D.N.Y.)

5 121. *Gally v. Toyota Motor Co. d/b/a Toyota Motor North America, Inc., et*
6 *al.*, No. 8:10-cv-00655 (formerly 1:10-cv-00854) (E.D.N.Y.)

7 122. *Boughner v. Toyota Motor Engineering & Manufacturing North*
8 *America, Inc., et al.*, No. 8:10-cv-00801 (formerly 2:10-cv-01361) (E.D.N.Y.)

9 123. *Rosenberg v. Toyota Motor Co., et al.*, No. 8:10-cv-00772 (formerly
10 2:10-cv-01272) (E.D.N.Y.)

11 124. *Vanagas v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00613
12 (formerly 3:10-cv-00293) (D. Or.)

13 125. *McCoy v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00614 (formerly
14 3:10-cv-00294) (D. Or.)

15 126. *Fahey v. Toyota Motor Co., et al.*, No. 8:10-cv-00615 (formerly 3:10-cv-
16 00297) (D. Or.)

17 127. *Gumble v. Toyota Motor Co., et al.*, No. 8:10-cv-00617 (formerly 5:10-
18 cv-00521) (E.D. Pa.)

19 128. *Greisiger v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00619
20 (5:10-cv-00554) (E.D. Pa.)

21 129. *Kirkpatrick v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-
22 00776 (formerly 2:10-cv-00994) (E.D. Pa.)

23 130. *Bonacci v. Toyota Motor Co., et al.*, No. 8:10-cv-00766 (formerly 8:10-
24 cv-00149) (D. Neb.)

25 131. *Grier v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00764 (formerly
26 3:10-cv-00176) (W.D.N.C.)

27 132. *Goodwin v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-01136
28 (formerly 1:10-cv-00514) (E.D. Va.)

1 133. *Ruf v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-00756 (formerly
2 0:10-cv-01694) (D. Minn.)

3 134. *O'Rourke v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-01544
4 (formerly 3:10-cv-00124) (S.D. Ohio)

5 135. *Harbor v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00775
6 (formerly 3:10-cv-00144) (S.D. Ohio)

7 136. *Meeks v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-01374 (formerly
8 1:10-cv-00364) (S.D. Ohio)

9 137. *Buccier v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-01372 (formerly
10 1:10-cv-01251) (N.D. Ohio)

11 138. *Young v. Toyota Motor Co., et al.*, No. 8:10-cv-01095 (formerly 3:10-cv-
12 00450) (M.D. Tenn.)

13 139. *Johnson v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00575
14 (formerly 2:10-cv-00622) (E.D. La.)

15 140. *Gaspard v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00581
16 (formerly 1:10-cv-00179) (W.D. La.)

17 141. *Boudoin v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-00747
18 (formerly 1:10-cv-00421) (W.D. La.)

19 142. *Brock v. Toyota Motor North America, Inc., et al.*, No. 8:10-cv-00468
20 (formerly 2:10-cv-00281) (E.D. La.)

21 143. *Frederickson v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:10-cv-
22 00745 (formerly 2:10-cv-00892) (E.D. La.)

23 144. *LaRocca's Auto Sales, Inc. v. Toyota Motor Sales, U.S.A., Inc., et al.*, No.
24 8:10-cv-00746 (formerly 2:10-cv-00893) (E.D. La.)

25 145. *Roberge v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-01769
26 (formerly 1:10-cv-11158) (D. Mass.)

27 146. *Schott v. Toyota Motor Sales, U.S.A., Inc., et al.*, No. 8:11-cv-00104
28 (formerly 1:10-cv-09188) (S.D.N.Y.)

1 147. *Gedid v. Toyota Motor Co., et al.*, No. 8:10-cv-00777 (formerly 2:10-cv-
2 00407) (W.D. Pa.)

3 148. *Markowitz v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:10-cv-01545
4 (formerly 2:10-cv-00644) (W.D. Pa.)

5 Plaintiffs' motion as to "Certain Economic Loss Plaintiffs" improperly fails to
6 address all of the Economic Loss actions transferred to this MDL that were filed
7 outside of California. Instead, Plaintiffs have selected a small subset of purported
8 class representatives (67 in total) who originally filed their claims in California, and
9 argue that their interests should govern the law as to all of the 205 Economic Loss
10 cases that have been transferred to this MDL Court, despite the fact that only 57 such
11 actions have been transferred from California courts. The 148 Economic Loss actions
12 filed outside of California cannot be ignored, and a determination should be made as
13 to all Economic Loss actions together. Plaintiffs' approach to choice-of-law seeks to
14 have the fact of this MDL alter substantive rights and is contrary to established
15 Supreme Court precedent and federal authority. As such, Toyota brings the instant
16 motion for a choice-of-law determination as to all Economic Loss actions in the MDL,
17 including those filed outside of California. To do otherwise would not only contradict
18 federal precedent, but also lead to piecemeal litigation and inefficiency. Toyota
19 simply asks to have a choice-of-law determination made for all and not in a piecemeal
20 fashion.

21 Plaintiffs' motion for a choice-of-law determination disregards the Court's
22 obligation to analyze the laws of each action in the MDL, regardless of whether the
23 action was filed in California. *See In re Nucorp Energy Sec. Litig.*, 772 F.2d 1486,
24 1492 (9th Cir. 1985) (holding that the MDL court must apply the choice-of-law rules
25 of the state where the claims were originally filed before they were transferred to
26 California by the JPML); *In re DirecTV Early Cancellation Litig.*, 738 F. Supp. 2d
27 1062, 1077 (C.D. Cal. 2010) (following *Nucorp* and holding that the MDL court must
28 apply the choice-of-law rules of each plaintiff's original forum state, and concluding

1 that different choice-of-law rules applied). This approach is not only inappropriate; it
2 fails to comply with Due Process. *In re TFT-LCD (Flat Panel) Antitrust Litig.*, 2010
3 U.S. Dist. LEXIS 65023, 13-14 (N.D. Cal. June 28, 2010) ("Due Process requires the
4 court to apply an individualized choice-of-law analysis to each plaintiff's claims")

5 Consideration of every individual action in the MDL is imperative to the
6 Court's choice-of-law determination. In fact, the jurisdiction of the transferor court of
7 each individual action is considered a forum state jurisdiction necessitating an
8 individualized choice-of-law determination. *See In re ConAgra Peanut Butter Prods.*
9 *Liab. Litig.*, 251 F.R.D. 689, 693 (N.D. Ga. 2008); *see also, In re Ford Motor Co.*
10 *Ignition Switch Prods. Liab. Litig.*, 174 F.R.D. 332, 348 (D.N.J. 1997) ("In diversity
11 cases transferred under the Judicial Panel on Multidistrict Litigation . . . this court is to
12 apply the choice-of-law rules of the transferor courts as to those incoming cases, as
13 well as the forum's choice-of-law rule for the cases originating here") (citations
14 omitted).

15 For the foregoing reasons, along with those outlined in the corresponding
16 memorandum of points and authorities, supporting declarations, and other documents
17 attached in support, Toyota respectfully requests that the Court grant its cross-motion
18 and make a choice-of-law determination for all Economic Loss actions in the MDL by
19 applying the choice-of-law rules of each of the transferor jurisdictions.

20 **This motion is based on this Cross-Notice, the complete files and records in**
21 **this case, and such further evidence as may be presented at or prior to the**
22 **hearing of the motion.**

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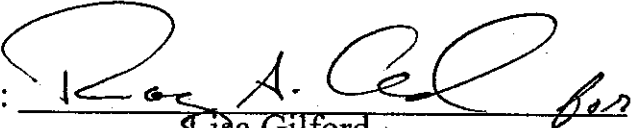
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2 Dated: April 1, 2011

Respectfully submitted,

3
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PROOF OF SERVICE

I, Laura Olagues, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is c/o Alston & Bird LLP, 333 South Hope Street, Sixteenth Floor, Los Angeles, California 90071. I am over the age of eighteen years and not a party to the action in which this service is made.

On April 1, 2011, I served the document(s) described as TOYOTA DEFENDANTS' NOTICE OF CROSS-MOTION AND CROSS-MOTION FOR CHOICE-OF-LAW DETERMINATION AS TO ALL ECONOMIC LOSS CASES AND PLAINTIFFS BEFORE THIS COURT on the interested parties in this action by enclosing the document(s) in a sealed envelope addressed as follows:


SEE ATTACHED SERVICE LIST

☒ BY UPS NEXT DAY AIR I deposited such envelope in a facility regularly maintained by UPS with delivery fees fully provided for or delivered the envelope to a courier or driver UPS authorized to receive documents at Alston & Bird LLP, 333 South Hope Street, Los Angeles, California 90071 with delivery fees fully provided for.

BY E-MAIL: I caused such documents to be delivered via electronic transmission to the offices of the addressee(s) at the e-mail listed in the court's electronic filing system.

☒ [Federal] I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 1, 2011, at Los Angeles, California.



Laura Olagues

**United States District Court
Central District of California
In Re: Toyota Motor Corp. Unintended Acceleration
Marketing, Sales Practices, And Products Liability Litigation
Case No.: 8:10ML2151 JVS (FMOx)**

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